



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR -2022-0450; FRL-9927-02-R2]

Approval and Promulgation of Implementation Plans; New York; Oil and Natural Gas Control Measures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the state of New York. The revision provides the State's control measures for facilities within its borders subject to EPA's 2016 Control Techniques Guideline (CTG) for the oil and natural gas industry. The intended effect of this action is to approve this item into the New York SIP and satisfy the requirement for the CTG. This action is being taken in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA-R02-OAR-2022-0450. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

FOR FURTHER INFORMATION, CONTACT: Omar Hammad, Environmental Protection Agency, 290 Broadway, New York, New York 10007-1866, at (212) 637-3347, or by email at Hammad.Omar@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA.

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I. Background

On March 21, 2022, New York submitted for approval a SIP revision to incorporate the adoption of Title 6 of the New York Codes, Rules, and Regulations (NYCRR) Part 200, “General Provisions,” and Part 203, “Oil and Natural Gas Sector,” as adopted on January 18, 2022. Part 200, section 200.9, amends Table 1 to add regulation 203-7.1(a) with a Code of Federal Regulations (CFR) citation of “40 CFR part 60, appendix A-7 (July 1, 2017).” Part 203 sets monitoring, operational, and reporting requirements for the oil and natural gas sector statewide. The adoption of Part 203 is meant to satisfy the requirements to implement EPA’s 2016 Oil and Natural Gas CTG within the 2008 and 2015 ozone nonattainment areas and statewide OTR requirements.

On June 15, 2022 (87 FR 36096, June 15, 2022), the EPA published a Notice of Proposed Rulemaking in which the EPA proposed to approve New York’s Part 200, “General Provisions,” section 200.9 amendment to Table 1 to add regulation 203-7.1(a) with a CFR citation of “40 CFR part 60, appendix A-7 (July 1, 2017).” EPA also proposed to approve Part 203, “Oil and Natural Gas Sector” control measure because it satisfies the 2016 Oil and Natural Gas Industry CTG.

II. Evaluation of Comments

In response to the EPA's June 15, 2022, proposed rulemaking on New York's SIP revision submittal, the EPA received one comment during the 30-day public comment period. After reviewing the comment, EPA has determined that the comment is outside the scope of our proposed action or fails to identify any material issue necessitating a response. The comment does not raise issues germane to the EPA's proposed action. For this reason, the EPA will not provide a specific response to the comment. The specific comment may be viewed under Docket ID Number EPA-R02-OAR-2022-0450 on the <https://www.regulations.gov> website.

III. Final Action

EPA is approving New York's Part 200, "General Provisions," section 200.9 amendment to Table 1 to add regulation 203-7.1(a) with a CFR citation of "40 CFR part 60, appendix A-7 (July 1, 2017)." EPA is also approving Part 203, "Oil and Natural Gas Sector" control measure, with a State effective date of March 18, 2022, because it satisfies the 2016 Oil and Natural Gas Industry CTG.

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, as discussed in section I of this preamble, the EPA is finalizing the incorporation by reference of Title 6 of the NYCRR Part 203, "Oil and Natural Gas Sector" of the New York Administrative Code that implements New York's RACT regulations for the oil and gas CTG, including attendant revisions to 6 NYCRR Part 200, "General Provisions," section 200.9, Table 1, "Referenced material."

The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and/or at the EPA Region 2 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion

in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 382, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

¹ See 62 FR 27968 (May 22, 1997).

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this final rulemaking action, pertaining to New York's oil and gas sector control measures submission, is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Lisa Garcia,
Regional Administrator,
Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION
PLANS**

1. The authority citation for part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 et seq.

Subpart HH – New York

2. In §52.1670 amend the table in paragraph (c) by revising the entry “Title 6, Part 200, Subpart 200.9” and adding an entry for “Title 6, Part 203” after the entry for “Title 6, Part 202, Subpart 202-2”, to read as follows:

§52.1670 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA-Approved New York State Regulations and Laws

State citation	Title/subject	State effective date	EPA approval date	Comments
* * * * *				
Title 6, Part 200, Subpart 200.9	General Provisions, Referenced material	3/18/22	[INSERT DATE OF PUBLICATION].	<ul style="list-style-type: none">• EPA is approving referenced materials that previously were not Federally enforceable.• EPA approval finalized at [INSERT FR CITATION]
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Title 6, Part 203	Oil and Natural Gas Sector	3/18/2022	[INSERT DATE OF PUBLICATION].	<ul style="list-style-type: none">• EPA approval finalized at [INSERT FR CITATION]

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[FR Doc. 2022-18323 Filed: 8/24/2022 8:45 am; Publication Date: 8/25/2022]